IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3350 of 2007()

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ST.753/2005 of JUDL. MAGISTRATE OF FIRST CLASS, PEERUMEDU

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PETITIONER:

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C.SUBRAMANIAN, S/O.CHELLAKKUTTY,
THANKARAJAN, THEPAKKULAM ESTATE,
LAKSHMI KOVIL P.O., PEERUMEDU.

BY ADV. SRI.RENJITH B.MARAR
SRI.L.RAJESH NARAYAN
SMT.LAKSHMI.N.KAIMAL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. D.T.SELAVAN, S/O.THANKAYYAN,
PUTHENVEEDU, PEERUMEDU KARA, PEERUMEDU VILLAGE,
PEERUMEDU TALUK.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.3350 of 2007**

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**Dated this the 2nd day of November, 2007**

**O R D E R**

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The verdict of guilty, conviction and sentence have become final with the order passed in revision by another Bench of this Court. The petitioner faces the sentence of imprisonment till rising of court. There is a direction to pay compensation and in default to undergo S.I for a period of 2 months. The petitioner was granted time till 30.08.07 to appear before the learned Magistrate and receive the sentence. The petitioner has not so far appeared. He is willing to make the payment within a period of one week. He apprehends that the learned Magistrate may not receive the amount and may insist on the petitioner undergoing the default sentence, he having not paid the amount within the time prescribed.

2. The petitioner will have to appear before the learned Magistrate to undergo the substantive sentence of imprisonment till rising of court. He will have to pay the amount payable as

compensation. If he does not pay, he will have to undergo the default sentence. If he makes payment of the amount, there can be no question of the default sentence being executed against him. This is so notwithstanding the fact that the time stipulated for payment has already elapsed. If there be any doubt, the position has been made crystal clear in the decision in **Girish v. Muthoot Capital Service (P) Ltd.** [2007(1) KLT 16)]. The apprehension of the petitioner, that even if he deposits the amount, the default sentence may be executed against him, is found to be without any basis.

3. This Crl.M.C is dismissed with the above observations.

**(R.BASANT, JUDGE)**

rtr/-